

REMARKS

Claims 1-7 and 9-18 are pending. Claims 1-5 have been cancelled, and claims 6, 7, 9 – 11, and 15-18 have been amended. Basis for the amendment to claim 18 is found in Figures 3 and 5 specification pages 13 – 17 (p. 17, lines 11-13). Entry of the amendments and reconsideration of the application are requested.

§ 102 Rejections

Claims 1-4 and 9 have been rejected under 35 USC § 102(b) as being anticipated by Brown (U.S. 2,175,714). This rejection has been avoided by the amendment to remaining claim 9 making it dependent from claim 10.

Claims 11-13 have been rejected under 35 USC 102(b) over Gershenson US Patent 5,755, 962. This rejection is avoided by the amended claims.

Claim 11 is to a liquid supply assembly comprising a container that can be connected to a spraying apparatus such as a hand held spray gun and having a filler opening. Gershenson describes a prefilter bag for insertion into a standard filtration bag apparatus (see abstract and column 3, lines 14 – 20). Although the Examiner has referred to item 20 in Gershenson Fig. 6 as a container, it is not a container, but rather a filter bag (see column 5, line 22-23). The article of claim 11, has, as a component, a container 11 in Figs 3 and 5 designed (when attached to lid 12) to be connected to a hand held spray gun. Gershenson's bag 20 would not function as such a container.

Neither does Gershenson disclose an open-topped container having a lid arranged to close the open end of the container and forming an end wall in which a filler opening is formed, as required by claim 11. The Office Action refers to Gershenson item 26 as a lid, but it is not a lid. Gershenson column 5, line 26 calls 25 a lip, and Gershenson Fig. 6 shows it as a lip around the periphery of filter membrane 10, with mostly open space at the top. Gershenson item 26 does not form an end wall and would not serve to close a container. There is no container in Gershenson Fig. 6, just filter bag 20.

Gershenson also does not disclose a container having a flexible, foldable side wall as required by claim 12. The side wall of claim 12 is foldable to move the base towards the lid as liquid is withdrawn from the container. This feature is disclosed in none of the references.

Because the required elements of claims 11 – 13 discussed above are not found in Gershenson, these claims, as amended, are not anticipated by the reference.

§ 103 Rejections

The cancellation of claim 5 has rendered moot the rejection of that claim.

Claims 10, 14, 17 and 18 have been rejected under 35 USC 103(a) as obvious over Kaltenbach US Patent 3,432,104 in view of Williams. This rejection has been avoided by the claim amendments. There are substantial differences between the disclosures of Kaltenbach and Williams and the amended claims:

1. Claim 10 requires a container having a collapsible side wall and a base on which it can stand unsupported in an upright position. Although Kaltenbach has cup 19 that has a side wall and base and stands upright, his collapsible liner 20 is a separate component which has no base and can not stand unsupported in an upright position, contrary to the assertion at office action page 7. Kaltenbach's liner 20 is a bag; whereas the container of rejected claim 11 is an open-topped container which is collapsible as liquid is withdrawn, as shown in Figs. 3 and 5 and described, *inter alia*, at specification page 8, lines 10-14, page 12, lines 16-23 and page 13, lines 5-14..
2. Kaltenbach is also lacking a filter having an open end having an integral support collar. Office action page 7 says that Kaltenbach discloses filter 32 including an elongate tubular body closed at one end and open at the other end being provided with a support collar that fits in the filler opening. With all due respect, Kaltenbach does not teach those features of claim 10. The brief discussion of item 32 in Kaltenbach (column 3, lines 15-16) says it is a screen and nowhere describes it as having a tubular shape or an integral collar. It is located in the fluid conduit of cover 28 and has a frustoconical shape in Fig 3, not tubular.
3. Claim 10 also requires that the filter fits in a filler opening in the container to filter liquid added to the container, permitting filling the container with liquid that is filtered on being added to the container. Kaltenbach's device does not meet this claim requirement. His filter screen 32 is located in the end of the conduit in cover 28 through which liquid goes to spray gun 10. There is no filler opening in Kaltenbach's container into which the filter screen 32 fits. One would normally fill the Kaltenbach container with cover 28 off, and there is no means disclosed in Kaltenbach to filter liquid entering his cup or liner.

Office action page 7 admits that Kaltenbach lacks a filter sufficiently flexible to allow it to collapse as the container side wall collapses, but relies on Williams to furnish that element. Williams discloses a snap-in filter unit for dust collectors. Williams' filter unit distorts when a

squeezing force is exerted on the upper portion of the unit in order to remove or install the unit in a dust collector, see column 5, line 56-62, column 6, lines 11 – 37 and Fig. 4. It is not Williams' whole unit that distorts, just the upper part necessary to fit into a dust collector, and it is only supposed to distort briefly during installation or removal. By contrast, the filter of claim 10 collapses as the container containing it collapses, i.e., the whole filter collapses, and not just temporarily. Williams requires a second portion formed with a plurality of longitudinally extending support means for engaging one end of his bag to maintain it in its tubular configuration (see, e.g., Williams claim 1 and column 4, line 65 – column 6, line 3). There is no such portion (to keep the tubular configuration) in the filter of claim 10 since it is intended to stay collapsed as paint is withdrawn from the container. Williams' filter unit could not be connected to a spray gun as required by claim 11, is intended for filtering dust from a gas stream and would perform no useful function with a spray gun; so, there is no reason to apply the teaching of Williams to spray gun apparatus such as those of Kaltenbach.

If one placed a filter according to Williams' design in Kaltenbach's container (instead of Kaltenbach's filter screen 32) the combination would still be missing the required: container having a collapsible side wall and base on which it can stand unsupported and upright; and filter fit in a filler opening in the container to permit filtering liquid added to the container.

Regarding claim 17, the office action (page 8) states that Kaltenbach discloses an opening not an open end of the reservoir, referring to an opening in cover 28 shown in Kaltenbach Fig. 3. With all due respect, that opening is the one by which liquid exits the cup toward spray gun 10. There is no teaching in Kaltenbach of filling his cup through that small opening in cover 28. Kaltenbach never calls his fluid conduit in his cover a filler opening, and anyone reading Kaltenbach would think to fill the cup with liquid before attaching the cover, since it would be much easier (without spilling) than pouring liquid through the small conduit in the cover. Neither Kaltenbach nor Williams disclose the limitation of claim 17, i.e., a filler opening in a container that is not an open end of the container.

Kaltenbach also does not disclose the limitation of claim 18, namely a filler opening diameter not more than one-half the lid diameter. Claim 18 has been amended to require that the filler opening be separate from the opening to be connected to a spraying apparatus. The

opening in Kaltenbach's lid to which the office action (page 8) refers is the fluid conduit through which liquid is conveyed to the spray gun 10 in Kaltenbach. It is not a filler opening.

Claims 6 and 7, which were rejected as obvious over Williams (office action page 6) have been amended to depend from claim 10, and the above arguments apply to those claims as well. In addition, Williams does not disclose a filter having a cage sufficiently flexible to allow the filter to collapse if the container containing it collapses. Williams' cage 40 includes a plurality of metal rods 48 welded to a retainer ring 50 (column 5, lines 15 – 20). Such a robust cage would provide substantial resistance to collapse if the container containing it collapsed.

The modifications necessary to the cited patents in order to overcome the differences between amended claims 10, 14, 17, 18, 6 and 7 and the combination of Kaltenbach and Williams are too great to be obvious to one of ordinary skill.

Claims 15 and 16 have been rejected under 35 USC § 103(a) as obvious over Kaltenbach in view of Williams and further in view of Brown. This rejection has been avoided by the amendments to claim 10 from which claims 15 and 16 depend.

Although Brown discloses intake port 4 at an angle not parallel to his receptacle 1 and offset from the axis of the receptacle, that disclosure in combination with Kaltenbach and Williams does not make claims 15 and 16 obvious. The arguments applied above regarding claim 10 apply to this rejection.

One reason for the orientation and offset of claims 15 and 16 is to enable one to fill the container of the claimed liquid supply assembly (e.g., with paint) without having to detach the spray gun (specification page 14, lines 12-15 and page 19, first full paragraph). Another reason is that the opening to be connected to the spray gun (12E in Fig. 5) is offset (see Figs 3, 5 and 6 and specification page 15 last paragraph), and placing the filler opening at an offset accommodates such a design. These reasons for placing the filter at an angle and/or making the filler opening offset would not occur to a skilled person with Kaltenbach and Williams in hand, then given Brown. Kaltenbach's cup is already underneath his spray gun and the fluid conduit to the spray gun is in the center of the cover. So there is not the concern with balance of a paint cup over the gun that there is with the design described in the present application. In addition, Kaltenbach has no filler opening, other than the open end of his cup. Thus, there is no need to make the filler opening accessible while the gun is still attached, since there is no filler opening

in Kaltenbach's cover. Therefore, although placing a filter at an angle and/or placing a filler opening in a container at an offset to the axis of the container may be within the skill of a designer, there is no reason arising from the cited art to apply these features to the liquid supply assembly of claim 10.

Office action page 9 has cited *In re Japikse*, 181 F. 2d 1019, 86 USPQ 70 (CCPA 1950) for the proposition that shifting the position of a particular element is unpatentable so long as the operation of the device is not modified. The modification suggested in the office action by combining Brown with Kaltenbach and Williams modifies the device of Kaltenbach. The act of adding a filler opening to Kaltenbach would modify the operation of his device. Therefore, as to amended claims 15 and 16, the Japikse case is inapposite.

In view of the foregoing, it is respectfully urged that claims 6, 7, and 9-18 as amended are in condition for allowance. Withdrawal of the rejections under 35 U.S.C. 102 and 103 is requested, and a notification of allowability is respectfully solicited. If any issues or questions remain, the resolution of which the Examiner feels would be advanced by a conference with applicant's attorney, she is invited to contact such attorney at the telephone number noted below.

Respectfully submitted,

July 15, 2008

Date

By: /Douglas B. Little/

Douglas B. Little, Reg. No.: 28,439

Telephone No.: 651-733-1501

Office of Intellectual Property Counsel
3M Innovative Properties Company
Facsimile No.: 651-736-3833